

The broadcast flag requirement cannot be implemented in a manner that does not harm private citizens' fair use rights. Mandating technology that restricts the circumstances under which people can use data means putting corporate interests ahead of individual rights. The proposed broadcast flag makes a temptation too difficult for any corporation to resist: imposing a pay-per-view world on the public, just as the public is poised to reap the fruits of years of technological evolution.

The proponents of broadcast flag claim that it will not interfere with the rights enjoyed by the public since the advent of the VCR. This is nonsense. It is not possible to restrict the reuse of data selectively and to block its transmission arbitrarily at the borders of the home without either A) violating the privacy of the home, or B) imposing arbitrary restrictions on use. If the broadcast flag did not interfere with copying or transmission of data, Hollywood would not clamor for it so. Distinguishing between fair and infringing uses is not something a microchip can do. It's a decision best left to jurists and juries. So far, no chip has yet been designed with the capacity to judge. Unless and until one is devised that can determine which reuse is fair (video collage, excerpting for discussion, etc.) and which reuse infringes, electronic implementations will be arbitrary, and likely will err on the side of so-called "content providers."

The FCC is presented with a stark choice: restrict freedom in order to prop up the broadcasters' failing business model, or choose freedom and not interfere with the natural advances of technology. History has shown time and again that industry is best nourished when liberty is best preserved, and when government does not meddle or interfere on behalf of economic partisans. Limiting citizens' rights in order to protect corporations from the march of technology would make the founders of this country cringe. This country has been the technological and industrial leader of the world precisely because it has avoided government tampering along the lines of mandating a broadcast flag.

Please say No to Hollywood and reject the proposed broadcast flag mandate.